



Order Filed on November 13, 2023  
by Clerk  
U.S. Bankruptcy Court  
District of New Jersey

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

**Caption in Compliance with D.N.J. LBR 9004-1(b)**

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In re:

CYXTERA TECHNOLOGIES, INC., *et al*

Debtors.<sup>1</sup>

Chapter 11

Case No. 23-14853 (JKS)


(Jointly Administered)

<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://www.kccllc.net/cyxtera>. The location of Debtor Cyxtera Technologies, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is: 2333 Ponce de Leon Boulevard, Ste. 900, Coral Gables, Florida 33134.

**ORDER (I) APPROVING  
THE BID PROTECTIONS AND (II) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered three (3) through seven (7), is  
**ORDERED.**

**DATED: November 13, 2023**

  
\_\_\_\_\_  
Honorable John K. Sherwood  
United States Bankruptcy Court

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In accordance with the *Order (I) Approving the Bidding Procedures and Auction, (II) Approving Stalking Horse Bid Protections, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of Notice Thereof, and (V) Granting Related Relief* [Docket No. 180] (the “Bidding Procedures Order”); and upon consideration of the *Notice of Bid Protections* [Docket No. 651], dated as of November 3, 2023 (the “Notice of Bid Protections”), and the relevant terms and conditions of the Asset Purchase Agreement by and between Cyxtera Technologies, Inc. and Phoenix Data Center Holdings LLC (the “Purchaser”), an affiliate of Brookfield Infrastructure Partners L.P. (such agreement, the “Asset Purchase Agreement”),<sup>2</sup> attached to the Notice of Bid Protections as Exhibit A and to the *Notice of Sale Transaction* [Docket No. 648] as Exhibit A; and the Court having jurisdiction to consider the Notice of Bid Protections and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Notice of Bid Protections in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that no objections were timely filed in response to the Bid Protections Notice; and due and proper notice of the Notice of Bid Protections and the Bidding Procedures Order having been provided; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Notice of Bid Protections; and this Court having determined that the legal and factual bases set

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<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the Bidding Procedures Order, the Notice of Bid Protections, or the Asset Purchase Agreement, as applicable.

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forth in the Notice of Bid Protections establish just cause for the relief granted herein; and it appearing that the relief granted herein is in the best interests of the Debtors, their estates, their creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and good and sufficient cause appearing therefor;

**IT IS HEREBY FOUND AND DETERMINED THAT:<sup>3</sup>**

A. Jurisdiction and Venue. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Designation of Stalking Horse Bidder. Pursuant to the Bidding Procedures Order, the Debtors are authorized to, in the exercise of their reasonable business judgment, designate one or more Stalking Horse Bidders with respect to some or all of the New Equity Interests and/or Assets and enter into the Stalking Horse Agreement for the sale of any such assets, subject to Court approval.

C. Bid Protections. Pursuant to the Bidding Procedures Order, the Debtors are, subject to the limitations set forth in the Asset Purchase Agreement, further authorized to (i) provide a break-up fee and (ii) agree to reimburse the reasonable and documented out of pocket fees and expenses of a Stalking Horse Bidder.

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<sup>3</sup> The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

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D. Notice of Bid Protections. On November 2, 2023, the Debtors (i) filed the Notice of Bid Protections disclosing their designation of the Purchaser as the Stalking Horse Bidder; (ii) served the Notice of Bid Protections on the Ad Hoc Group, the Committee, and the U.S. Trustee in accordance with the Bidding Procedures Order; and (iii) caused the Notice of Bid Protections to be published on the website maintained by the Debtors' claims and noticing agent in these chapter 11 cases. No other or further notice of the relief granted herein is required.

E. Purchaser is Disinterested. The Purchaser is not an "insider" or "affiliate" of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of directors, officers, or controlling stockholders exists among the Purchaser and the Debtors.

F. Good Faith. The Purchaser and its counsel and advisors have acted in "good faith" within the meaning of section 363(m) of the Bankruptcy Code in connection with the Purchaser's negotiations of the Bid Protections.

G. Adequate Notice. A reasonable opportunity to object or be heard regarding the relief granted herein has been afforded to all parties in interest in these chapter 11 cases.

H. Relief is Warranted. Good and sufficient business reasons exist for this Court to authorize the Debtors to designate the Purchaser as the Stalking Horse Bidder and to approve the Bid Protections set forth in the Asset Purchase Agreement.

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. Designation of Stalking Horse Bidder. The Debtors are authorized to designate the Purchaser as, and the Purchaser is hereby designated as, the Stalking Horse Bidder.

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2. All objections to the relief granted herein that have not been withdrawn, waived, or settled are overruled as to the relief granted herein.

3. Approval of Bid Protections. The Bid Protections, as set forth in Section 8.2 of the Asset Purchase Agreement, are hereby approved in their entirety, and the Debtors are authorized and directed to promptly pay, as they become due, any amounts owed to the Purchaser on account of the Bid Protections in accordance with the Asset Purchase Agreement.

4. The Bid Protections shall constitute, subject and subordinate only to the Carve Out (as defined in the *Final Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens And Providing Superpriority Administrative Expense Claims, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 297]), allowed superpriority administrative expense claims pursuant to sections 105(a), 364(c)(1), 503(b), and 507(a)(2) of the Bankruptcy Code with priority over all other administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code and such allowed superpriority administrative expense claim shall be superior in priority to all other similarly situated claims asserted or allowed in these chapter 11 cases.

5. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

6. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 6006(d), 7062, and 9014, or any applicable provisions of the Local Rules or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry, and no automatic stay of execution shall apply to this Order.

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7. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.